

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

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YOON SOO MIN, JEONG SEON PARK, \* CIV. 09-1015  
YONG NAN PARK, AND JAE MOON \*  
CHUNG, \*  
\*  
Plaintiffs, \*  
\*  
vs. \* SEPARATE ANSWER OF  
\* DEFENDANTS  
\* GERALD WINTER AND  
\* E. DARLENE WINTER  
RODNEY WINTER, KIMBERLIE WINTER, \*  
GERALD WINTER, E. DARLENE WINTER, \*  
RKW DAIRY, L.L.C. A South Dakota Limited \*  
Liability Company, and WINTER DAIRY \*  
LIMITED PARTNERSHIP, A South Dakota \*  
Limited Partnership, \*  
\*  
Defendants. \*  
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Gerald Winter and E. Darlene Winter (hereinafter "these Defendants"), by and through counsel, for their Separate Answer to the Plaintiffs' Complaint state and allege as follows:

1. The Plaintiffs' Complaint fails to state a claim against these Defendants upon which relief may be granted.
2. These Defendants deny each and every matter, allegation and thing contained in the Complaint, except as hereinafter admitted.
3. These Defendants lack sufficient information or knowledge with respect to the allegations of paragraph 1 of the Plaintiffs' Complaint, and therefore, remit the Plaintiffs to strict proof thereof.
4. Further answering, these Defendants admit paragraphs 2, 3, 4, and 5 of the Plaintiffs' Complaint.

5. Further answering, these Defendants admit that they are citizens of the State of Washington, but deny that this Court has personal or subject matter jurisdiction over these Defendants with respect to this case.

6. These Defendants specifically deny that this Court has subject matter jurisdiction pursuant to 28 USC §1332, because among other things, there is not complete diversity of citizenship since the Plaintiffs, as limited partners of Winter Dairy, LP, and as aliens, destroy the complete diversity required under that statute.

7. With respect to the allegations in the Plaintiffs' Complaint, as against these Defendants, these Defendants deny the allegations set forth in the Fourth Cause of Action entitled Civil Conspiracy, and further specifically deny the allegations in paragraphs 61, 62, 63, 64, and 65 of the Plaintiffs' Complaint.

8. In addition, these Defendants deny the allegations in paragraphs 66, 67, 68, 69 of the Plaintiffs' Complaint.

9. Further answering, these Defendants allege that the Plaintiffs' claims as against them fail for lack of privity of contract.

10. These Defendants allege that the Plaintiffs' claims fail for lack of consideration.

11. These Defendants allege that the Plaintiffs' claims as against them are barred by the doctrines of waiver, estoppel, unclean hands, and *in pari delicto*.

12. Further answering, these Defendants deny the nature and extent of the damages claimed by the Plaintiffs and further deny the alleged cause of those damages.

WHEREFORE, these Defendants respectfully request that the Plaintiffs' claims as against these Defendants be dismissed with prejudice, on the merits, that these Defendants recover their costs, attorneys' fees, and such further relief as the Court may deem appropriate,

and further respectfully request that any judgment entered in this action would be void for lack of subject matter jurisdiction.

Dated this 29<sup>th</sup> day of March, 2010.

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*Attorneys for Defendants Gerald Winter and  
E. Darlene Winter*

**DEMAND FOR JURY TRIAL**

These Defendants request a jury trial on all issues of facts.

/s/ Michael J. Schaffer

### CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendants Gerald Winter and E. Darlene Winter, hereby certifies that a true and correct copy of the foregoing "Separate Answer of Defendants Gerald Winter and E. Darlene Winter" was served by e-filing upon:

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this 29<sup>th</sup> day of March, 2010.

/s/Michael J. Schaffer